

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

WILLIAM ANDERSON,

Plaintiff,

v.

THE BASEBALL CLUB OF SEATTLE d/b/a  
THE SEATTLE MARINERS; THE CITY OF  
SEATTLE; LARRY HARVEY; LARRY  
MEYER; OFFICER TIMOTHY RENIHAN;  
TRENT BERGMAN; OFFICER DAVID  
SULLIVAN; OFFICER JUAN ORNELAS;  
JOHN DOES NO. 1-10,

Defendants.

No. C09-0850RAJ

DECLARATION OF TIMOTHY K. FORD  
IN SUPPORT OF PLAINTIFF'S RESPONSE  
TO MOTION TO QUASH SUBPOENA OF  
RICHARD CONLIN.

TIMOTHY K. FORD on oath declares as follows:

1. I am one of the attorneys for the plaintiff in this case and make this Declaration in support of his Response to Defendant's Motion to Quash Subpoena of Richard Conlin.

2. Exhibit A is a true copy of the Docket in *City of Seattle v. William Anderson*, Seattle Municipal Court No. 488048, in which Seattle Municipal Court's Judge Judith Hightower dismissed on August 24, 2007 criminal mobile vending charges, "for lack of authority" on the part of the enforcing officers.

3. Exhibit B is a true copy of a part of the transcript of Seattle Municipal Court Judge Judith Hightower's oral decision dismissing criminal charges of mobile vending against

DECLARATION OF TIM FORD IN SUPPORT OF PLAINTIFF'S  
RESPONSE TO MOTION TO QUASH SUBPOENA OF RICHARD  
CONLIN. - 1

No. C09-0850RAJ

MACDONALD HOAGUE & BAYLESS  
705 Second Avenue, Suite 1500  
Seattle, Washington 98104  
Tel 206.622.1604 Fax 206.343.3961

1 Mr. Mac McCool on September 9, 2010. The written findings and order in that case have not yet  
2 been filed.

3 4. Exhibit C is true copies of relevant pages of Defendant Bergmann's July 12, 2010  
4 deposition and Officer Juan Ornelas September 16, 2010 deposition.

5 5. Exhibit D is a true copy of a Seattle Times newspaper article quoting Councilman  
6 Richard Conlin regarding the policing of ticket selling.

7 6. Exhibit E is a true copy of relevant pages of Plaintiff's Fifth Request for  
8 Production to Defendant City of Seattle, and the City's Answers.

9 7. Exhibit F is a copy of email exchange between defense counsel and Plaintiff's  
10 counsel regarding the deposition of Councilmember Conlin. The emails have been manually  
11 reorganized into the correct chronological order.

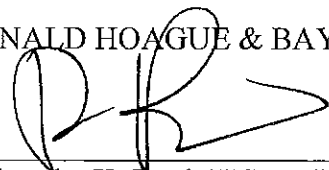
12 I declare under penalty of perjury that the foregoing is true to the best of my knowledge.

13 DATED this \_\_\_\_ day of October, 2010.

14 Respectfully submitted,

15 MacDONALD HOAGUE & BAYLESS

16  
17 By

  
18 Timothy K. Ford, WSBA #5986  
19 Attorneys for Plaintiff  
20  
21  
22  
23  
24  
25  
26  
27

DECLARATION OF TIM FORD IN SUPPORT OF PLAINTIFF'S  
RESPONSE TO MOTION TO QUASH SUBPOENA OF RICHARD  
CONLIN. - 2

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4<sup>th</sup> day of October, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to the following:

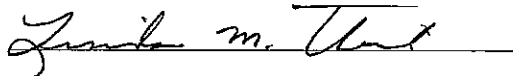
David J. Burman [dburman@perkinscoie.com](mailto:dburman@perkinscoie.com), [docketsea@perkinscoie.com](mailto:docketsea@perkinscoie.com),  
[jmccluskey@perkinscoie.com](mailto:jmccluskey@perkinscoie.com)

Theron A Buck [tbuck@staffordfrey.com](mailto:tbuck@staffordfrey.com), [dmashburn@staffordfrey.com](mailto:dmashburn@staffordfrey.com),  
[hguthrie@staffordfrey.com](mailto:hguthrie@staffordfrey.com), [lreese@staffordfrey.com](mailto:lreese@staffordfrey.com), [vstegic@staffordfrey.com](mailto:vstegic@staffordfrey.com)

Peter J Mullenix [pmullenix@staffordfrey.com](mailto:pmullenix@staffordfrey.com), [hguthrie@staffordfrey.com](mailto:hguthrie@staffordfrey.com),  
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Ryan T. Mrazik [RMrazik@perkinscoie.com](mailto:RMrazik@perkinscoie.com), [amontclair@perkinscoie.com](mailto:amontclair@perkinscoie.com),  
[docketsea@perkinscoie.com](mailto:docketsea@perkinscoie.com)



DECLARATION OF TIM FORD IN SUPPORT OF PLAINTIFF'S  
RESPONSE TO MOTION TO QUASH SUBPOENA OF RICHARD  
CONLIN. - 3

No. C09-0850RAJ  
9333:1 8/23/201

MACDONALD HOAGUE & BAYLESS  
705 Second Avenue, Suite 1500  
Seattle, Washington 98104  
Tel 206.622.1604 Fax 206.343.3961

# EXHIBIT A

MUNICIPAL COURT OF SEATTLE  
DOCKET  
Case Status: CLSE

r295002

CITY OF SEATTLE, Plaintiff

Vs.

\*\* CLOSED \*\*

CERTIFIED  
COPY

ANDERSON, WILLIAM L , Defendant

Address: 2424 E VALLEY ST  
SEATTLE, WA 98112  
206 322/8109 (Home)

Case No: 488048  
File Loc: REC  
Def No: 120708  
Incident No: 6247433  
Custody: OUT  
Rltd Grp No:  
Co-Def's:

DOB: 09/20/1969 Age: 40 Sex: M Race: B Lang:

Sentencing Judge:

Prosecutor:

Defense Attorney:

Interpreter:

-----  
\*\* Charges \*\*

Chrg Doc No: Type: CS Viol Date: 06/18/2006 Filing Date: 08/25/2006

Chrg 1: MOBILE PEDDLING IN RESTRICTED AREA  
15.17.010 Plea: Find: Status: DM  
Disposition: DISMISSED WITH PREJUDICE  
Dismissal: MTG

BAIL BAIL NOT FORFEITABLE CBE  
Start:08/29/2006 Due:08/29/2006 End:09/19/2006 FTA WARRANT ISSUED  
Amt:95 Susp: Curr:

## Other Case Obligations:

BALW BAIL ON A WARRANT HTG  
Start:09/16/2006 Due: End:09/23/2006 RELEASE ON PR  
Amt:95 Susp: Curr:

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\*\* Scheduled Hearings \*\*

S	Date	Time	Ctrm	Type	Tape	Judge	Prosecutor	Date	Clk
W	09/13/2006	14:35	901	INTAKE		MAMIYA, R	KILPATRIC, K	08/29/2006	AXJ
H	09/27/2006	13:35	901	INTAKE		HOLIFIELD, G	KILPATRIC, K	09/23/2006	HTG
H	10/23/2006	14:30	903	PTH		HIGHTOWER, J	GAPPERT, B	09/27/2006	CBE
H	12/11/2006	13:30	903	PTH		HIGHTOWER, J	LOGAN, J	10/23/2006	MAK
H	02/02/2007	10:00	903	MOTION		HIGHTOWER, J	ROBERTSON, R	12/11/2006	KLH
R	02/16/2007	8:30	1002	RDNSS				12/11/2006	KLH
C	02/21/2007	8:30	1002	MASTER				12/11/2006	KLH
H	02/23/2007	10:00	903	MOTION		HIGHTOWER, J	GREENE, R	02/20/2007	ECJ

Def. Name: ANDERSON, WILLIAM L  
14:05:53 As of 09/17/2010

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H 03/09/2007 10:00 903	MOTION	HIGHTOWER, J ROSS, B	02/23/2007 ECJ
H 03/23/2007 10:00 903	MOTION	HIGHTOWER, J ROSS, B	03/09/2007 ECJ
H 04/30/2007 14:30 903	PTH	HIGHTOWER, J ROSS, W	03/23/2007 MAK
H 07/12/2007 13:30 903	MOTION	HIGHTOWER, J WINCHESTE, T	04/30/2007 ECJ
H 07/13/2007 10:00 903	RDNSS	HIGHTOWER, J SARGENT, H	04/30/2007 ECJ
C 07/24/2007 9:00 903	JURY		04/30/2007 ECJ
H 08/23/2007 13:30 903	MOTION	HIGHTOWER, J SARGENT, H	07/13/2007 ECJ
H 08/24/2007 10:00 903	RDNSS	HIGHTOWER, J SARGENT, H	07/13/2007 ECJ
C 08/28/2007 9:00 903	JURY		07/13/2007 ECJ

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 \*\* Events \*\*

Date	Description	
08/25/2006	CHARGE(S) FILED	AXJ
08/29/2006	INTAKE HEARING SCHEDULED FOR 09/13/2006 AT 1435 IN COURTROOM 901	AXJ
08/30/2006	INTAKE HEARING NOTICE MAILED TO 2424 E VALLEY ST SEATTLE, WA 98112	B
09/13/2006	DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT DEF IS NOT CURRENTLY HELD IN KCCS OR YAKIMA JAIL	CBE
09/19/2006	PROBABLE CAUSE FOUND BY COURT	CBE
09/19/2006	BENCH WARRANT # 990315788 ISSUED 09/16/2006	CBE
09/23/2006	BENCH WARRANT # 990315788 CLEARED RELEASED ON PERSONAL RECOGNIZAN ()	HTG
09/23/2006	PR GRANTED BY COURT	HTG
09/23/2006	INTAKE HEARING SCHEDULED FOR 09/27/2006 AT 1335 IN COURTROOM 901	HTG
09/24/2006	INTAKE HEARING NOTICE MAILED TO 2424 E VALLEY ST SEATTLE, WA 98112	B
09/27/2006	DF: ANDERSON, WILLIAM L (120708) PRESENT	CBE
09/27/2006	DEF SCREENED-CASE REFERRED TO ACA FOR ASSIGNMENT	CBE
09/27/2006	PRE-TRIAL HEARING SCHEDULED FOR 10/23/2006 AT 1430 IN COURTROOM 903	CBE
10/03/2006	NOTICE OF APPEARANCE FILED BY ACA ATTY HILL WSBA #36663	SXP
10/23/2006	DF: ANDERSON, WILLIAM L (120708) PRESENT LOC 3:04. CLK MAK. DA: G HILL.	MAK
10/23/2006	CONTINUANCE REQUESTED BY DEFENSE INVESTIGATION AND CONSULTATION - GRANTED	MAK
10/23/2006	SPEEDY TRIAL RULE WAIVER FILED NEW COMM DATE 11/15/06 NEW EXP DATE 2/13/07	MAK

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 Def. Name: ANDERSON, WILLIAM L  
 14:05:53 As of 09/17/2010

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10/23/2006 PRE-TRIAL HEARING SCHEDULED FOR 12/11/2006 AT 1330 IN COURTROOM 903 MAK

12/11/2006 DF: ANDERSON, WILLIAM L (120708) PRESENT KLH  
FTR: 2:31 CLK: KLR ATTY G. HILL PRESENT  
TRIAL SETTING: SEE PRE-TRIAL ORDER FOR NOTED MOTIONS AND RULINGS.

12/11/2006 SPEEDY TRIAL RULE WAIVER FILED - KLH  
NEW COMMENCEMENT DATE: 01/15/07  
NEW EXP: 04/15/07

12/11/2006 MASTER CALENDAR SCHEDULED FOR 02/21/2007 AT 830 IN COURTROOM 1002 KLH

12/11/2006 MOTION HEARING SCHEDULED FOR 02/02/2007 AT 1000 IN COURTROOM 903 KLH

02/02/2007 DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT MAK  
LOC 10:08. CLK MAK. DA: G HILL. ORDER CONTINUING TRIAL DATE FOR DISCOVERY/MOTION HEARING - GRANTED. SPEEDY TRIAL EXTENDED 49 DAYS TO ACCOMODATE CONTINUANCE.  
\*NO TRIAL DATE SET\*

02/02/2007 MASTER CALENDAR HRNG SCHDLD FOR 02/21/2007 AT 830 IN DEPT 1002, CANCELLED! MAK

02/02/2007 MOTION HEARING SCHEDULED FOR 03/23/2007 AT 1000 IN COURTROOM 903 MAK

02/20/2007 MOTION HEARING SCHEDULED FOR 02/23/2007 AT 1000 IN COURTROOM 903 ECJ

02/20/2007 MOTION HEARING HRNG SCHDLD FOR 03/23/2007 AT 1000 IN DEPT 903, CANCELLED! ECJ

02/20/2007 CLERK ECJ. OTR. CASE ADVANCED PER DA MOTION - GRANTED BY JUDGE HIGHTOWER. PA NOTIFIED [R CHUNG]. (CS EVENT) ECJ

02/23/2007 DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT ECJ  
CLERK ECJ. DA: G HILL. SET OVER SHOW CAUSE HEARING DUE TO LATE SERVICE OF COURT'S ORDER.

02/23/2007 MOTION HEARING SCHEDULED FOR 03/09/2007 AT 1000 IN COURTROOM 903 ECJ

03/09/2007 DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT ECJ  
CLERK ECJ. DA: G HILL. ISSUES RESOLVED; DA MOTION TO SHOW CAUSE WITHDRAWN. LEO POORT PRESENT.

03/09/2007 MOTION HEARING SCHEDULED FOR 03/23/2007 AT 1000 IN COURTROOM 903 ECJ

03/23/2007 DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT MAK  
LOC 11:01. CLK MAK. DA: G HILL. ST TOLLED.

2009  
CERTIFIED

=====  
Def. Name: ANDERSON, WILLIAM L  
14:05:53 As of 09/17/2010

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03/23/2007 PRE-TRIAL HEARING SCHEDULED FOR 04/30/2007 AT 1430 IN COURTROOM 903 MAK

04/30/2007 DF: ANDERSON, WILLIAM L (120708) PRESENT CLERK ECJ. DA: G HILL. TRIAL SETTING: SEE PTH ORDER FOR NOTED MOTIONS AND RULINGS. ECJ

04/30/2007 SPEEDY TRIAL RULE WAIVER FILED - NEW COMM DATE: 070207 NEW EXP DATE: 092807 ECJ

04/30/2007 MOTION HEARING SCHEDULED FOR 07/12/2007 AT 1330 IN COURTROOM 903 ECJ

04/30/2007 READINESS HEARING SCHEDULED FOR 07/13/2007 AT 1000 IN COURTROOM 903 ECJ

04/30/2007 JURY TRIAL SCHEDULED FOR 07/24/2007 AT 900 IN COURTROOM 903 ECJ

07/12/2007 DF: ANDERSON, WILLIAM L (120708) PRESENT CLERK ECJ. DA: G HILL. DA KNAPSTAD MOTION RECEIVED 062707 AND FILED 071107. DA MOTION TO CONTINUE TO BE HEARD AT RDNSS. ECJ

07/13/2007 DF: ANDERSON, WILLIAM L (120708) DEFENDANT NOT PRESENT CLERK ECJ. DA: G HILL. ORDER CONTINUING TRIAL FILED. ECJ

07/13/2007 MOTION HEARING SCHEDULED FOR 08/23/2007 AT 1330 IN COURTROOM 903 ECJ

07/13/2007 READINESS HEARING SCHEDULED FOR 08/24/2007 AT 1000 IN COURTROOM 903 ECJ

07/13/2007 JURY TRIAL SCHEDULED FOR 08/28/2007 AT 900 IN COURTROOM 903 ECJ

07/13/2007 JURY TRIAL HRNG SCHDLD FOR 07/24/2007 AT 900 IN DEPT 903, CANCELLED! ECJ

08/21/2007 CLERK ECJ. OTR. PA'S RESPONSE BRIEF TO DA KNAPSTAD MOTION FILED AND WORKING COPY TO JUDGE HIGHTOWER. (CS EVENT) ECJ

08/23/2007 DEFENSE MOTION TO REDESIGNATE PRIOR PLEADING AS MOTION TO DISMISS FOR VIOLATION OF SMC 15.90.004 FILED 8-23-07 BY ATTN Y GORDON HILL 36663 FWDED TO 903 (CS EVENT) NJC

08/23/2007 DF: ANDERSON, WILLIAM L (120708) PRESENT CLERK ECJ. DA: G HILL. MOTION HEARING HELD. DA MOTION TO EXCLUDE WITNESSES - GRANTED. ECJ

08/23/2007 OFFICER AARON KAMALU (MOTION/ DEFENSE WITNESS) TESTIFIED ECJ

08/23/2007 PA EXHIBIT# 1 (COPY) POLICE REPORT #420020 ECJ

Def. Name: ANDERSON, WILLIAM L  
14:05:53 As of 09/17/2010

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## MARKED FOR IDENTIFICATION TO REFRESH OFFICER MEMORY

08/23/2007 LAWRENCE MEYER (MOTION/ DEFENSE WITNESS) TESTIFIED ECJ  
 08/23/2007 JASON WEARING (MOTION/ DEFENSE WITNESS) TESTIFIED ECJ  
 08/23/2007 DEFENSE RESTS. (CS EVENT) ECJ  
 08/23/2007 PAUL SCHEICK (MOTION/ PA WITNESS) TESTIFIED ECJ  
 08/23/2007 CITY RESTS. (CS EVENT) ECJ  
 08/23/2007 ARGUMENTS HEARD. (CS EVENT) ECJ  
 08/24/2007 DF: ANDERSON, WILLIAM L (120708) PRESENT ECJ  
 CLERK ECJ. DA: G HILL.  
 08/24/2007 MR. DE PLACE (MOTION/ PA WITNESS) TESTIFIED ECJ  
 08/24/2007 COURT FINDS THAT SPD IS ACTING IN THEIR PRIVATE ECJ  
 CAPACITY; DA MOTION TO DISMISS FOR LACK OF AUTHORITY -  
 GRANTED. (CS EVENT) (CS EVENT)  
 08/24/2007 CHARGE # 1 151701000 (STREET USE) DISMISSED WITH ECJ  
 PREJUDICE MOTION GRANTED  
 08/24/2007 JURY TRIAL HRNG SCHDLD FOR 08/28/2007 AT 900 IN DEPT ECJ  
 903, CANCELLED!  
 11/24/2007 CASE CLOSED, OBLIGATIONS CLOSED FOR 90 DAYS B  
 05/09/2008 NOTICE OF WITHDRAWAL FILED 3/28/08 ACA GORDON HILL. SXH

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\*\* Warrants \*\*

Wrnt Nr	Issued	Served	Wrnt/ Clrn Type	Description
990315788	09/16/2006	09/23/2006	BW PR	BENCH WARRANT RELEASED ON PERSONAL RECOGNIZANCE
Reasons: FAIL TO APPEAR FOR INTAKE HEARING				
Warrant issued by: JUDGE RON MAMIYA				

-----  
\*\* Accounting Summary \*\*

\*\* Total due on this case: .00 \*\*

=====

Def. Name: ANDERSON, WILLIAM L  
 14:05:53 As of 09/17/2010

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STATE OF WASHINGTON } ss  
County of King

ROBERT WHITE, Clerk of the Municipal Court of the City of Seattle, State of Washington for the County of King, do hereby certify that I have compared the foregoing copy with the original instrument as the same appears file and or record in my office, and that the same is a true and perfect transcript of said original and of the whole thereof.

INTESTIMONY WHEREOF I have hereunto set my hand and affixed the Seal of said Municipal Court at my office at Seattle this 17th day of September 2010

ROBERT A. WHITE, Municipal Court Clerk  
by Andie Clark  
Deputy Clerk

# EXHIBIT B

IN THE SEATTLE MUNICIPAL COURT  
IN AND FOR THE COUNTY OF KING  
OF THE STATE OF WASHINGTON

CITY OF SEATTLE,	)	
	)	
Plaintiff,	)	Cause Nos. 526303, 530557,
	)	538968, 538969,
v.	)	541601, 543965,
	)	and 545569.
MAC DUFFY McCOOL,	)	
	)	
Defendant.	)	
_____	)	

VERBATIM REPORT OF  
CD RECORDED PROCEEDINGS

September 9, 2010

HEARD BEFORE THE HONORABLE JUDITH HIGHTOWER

FOR THE PLAINTIFF:	MIKE SANDERS Seattle City Attorney's Office 700 Fifth Avenue, Suite 5350 P.O. Box 94667 Seattle, Washington 98124-4667
FOR THE DEFENDANT:	GORDON B. HILL Associated Counsel for the Accused 420 West Harrison Street, Suite 201 Kent, Washington 98032-4491

EXHIBIT B

1       It's from that exercise of police power by the  
2       Department of Transportation has been given the authority  
3       over this that allows them to -- to -- just this is as kind  
4       of an aside -- it allows them to delegate authority to  
5       enforce it.

6       Going back to the commercial speech issue, so, this  
7       ordinance does advance a substantial government interest in  
8       public safety even though it may be hard for us to see how  
9       this kind of vending might do that. The statutory scheme  
10      seems to be appropriate and has a valid time, place, and  
11      manner restriction such that if -- and I should say this; I  
12      think I might have said this -- one of the issues that was  
13      inferred that Mr. McCool could not get a license, that he  
14      tried to and he could not. There was nothing ever --  
15      there's no evidence ever presented to the Court, and  
16      there's nothing in the record to establish that he could  
17      not have gotten a permit if he so desired.

18      So, the argument -- the motion to dismiss for violation  
19      of the Constitution fails, and I would deny that motion.

20      Whether or not the tickets are goods or services, that  
21      arose under the Defense motion to dismiss under Knapstad.  
22      That would only imply to those cases charged under 050.  
23      That is the only one that addresses goods or services. And  
24      since I'm finding that tickets are not a good or a service,  
25      then presumably -- I just want to make sure which causes

1 those are --

2 MR. SANDERS: I have those, Your Honor, for --

3 THE COURT: I have them, too.

4 MR. SANDERS: All right.

5 THE COURT: I'm just -- I'm -- I'm -- there's other  
6 issues I need to make sure because --

7 MR. SANDERS: Okay.

8 THE COURT: -- I need to make sure that this is what I'm  
9 doing. So, Mr. McCool was charged with Violation of  
10 15.17.050 under Cause No. 538969 -- oh, just have to wait  
11 till the Clerk isn't distracted. Okay, Madam Clerk, I'm  
12 getting ready to enter a dismissal, so you need to listen  
13 to this part.

14 Under Cause Nos. 538969, 541601 -- and I think that's  
15 it. There's only two, correct? Do you have more than two?

16 MS. ROWE: I think there's a third one, Your Honor. I  
17 think the one ending in 968 is charged or cited under 050.

18 THE COURT: All right. The Officer put it under 010,  
19 so, the City filed that as 050?

20 MR. SANDERS: Yes, Your Honor. 968, 969, and 569 are  
21 under 050, Safeco, No Vending.

22 [Off-the-record discussion.]

23 THE COURT: All right. I thought No Vending is 010.  
24 050 is -- oh, no, that's right. 010 is Mobile Peddling.

25 MR. SANDERS: Yes, Your Honor.

# EXHIBIT C

Trent Bergmann

July 12, 2010

Page 1

1 UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3 -----  
 4 WILLIAM ANDERSON,

5 Plaintiff,

6 vs.

7 THE BASEBALL CLUB OF SEATTLE  
 8 d/b/a THE SEATTLE MARINERS;  
 THE Attorney at Law; JASON  
 9 WEAVING; LARRY HARVEY; LARRY  
 MEYER; OFFICER TIMOTHY  
 10 RENIHAN; TRENT BERGMAN;  
 OFFICER DAVID SULLIVAN;  
 11 OFFICER JUAN ORNELAS; JOHN  
 DOES NO. 1-10,

12 Defendants.  
 13 -----

14 DEPOSITION UPON ORAL EXAMINATION OF  
 15 TRENT BERGMANN  
 16 -----

17  
 18  
 19 Taken at 601 Union Street  
 20 Suite 4800  
 Seattle, Washington  
 21 July 12, 2010  
 1:00 p.m.  
 22  
 23  
 24

25 Reported by: Sharon Rindal, CCR No. 2680



Trent Bergmann

July 12, 2010

Page 102

1 A No.  
 2 Q Do you have any idea what Sylvester's last name is?  
 3 A No.  
 4 Q Does he have an office or a station inside the  
 5 security office at Safeco?  
 6 A Yes.  
 7 Q So that's where you would expect to see him?  
 8 A Yes.  
 9 Q Have you ever issued a ticket for violation of Seattle  
 10 Municipal Code Chapter 15.17 when you were not working  
 11 off duty for the Mariners or Qwest?  
 12 A Did I ever issue a ticket?  
 13 Q Yes, for that --  
 14 A I'm not sure.  
 15 Q -- offense.  
 16 A I'm not sure.  
 17 MR. MULLENIX: Mr. Ford, was your  
 18 question over his entire career.  
 19 MR. FORD: Yes.  
 20 MR. MULLENIX: Okay.  
 21 A I was involved with a mobile vending incident, but I  
 22 don't know if I issued a ticket.  
 23 Q (By Mr. Ford) Just once?  
 24 A Yes.  
 25 Q And can you tell me about that incident?

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1 A It was a Torchlight Parade that was -- I think that  
 2 was Fourth Avenue, and it was before the parade  
 3 started, and there was somebody vending something. I  
 4 was told to stop them from doing it, so I confronted  
 5 them. But then another more knowledgeable officer  
 6 assisted me and said -- and told the -- because I  
 7 didn't know anything about mobile vending at the time,  
 8 and I just kind of assisted that officer. But I don't  
 9 remember if I was the one that wrote ticket or if we  
 10 just gave the guy a verbal warning and he left,  
 11 because it was about, oh, maybe 12 years ago when this  
 12 occurred.  
 13 Q You don't remember anything about what it was that he  
 14 was vending?  
 15 A Yeah, I remember he had a bunch of those  
 16 glow-in-the-dark things that he was selling to kids,  
 17 you know, things that they spin around and -- gadgets.  
 18 Q Other than mobile vending, the fact that he was  
 19 selling those things, was there anything about what he  
 20 was doing that caused him to come to your attention?  
 21 In other words, was he blocking traffic or --  
 22 A He never came to my attention. The sergeant came over  
 23 the radio, asked for the officer that was standing at  
 24 that particular post. I said, That's me. He goes,  
 25 Hey, I need you to deal with a guy that's vending.

Page 104

1 And, again, I didn't know anything about mobile  
 2 vending at that time. I didn't know what to do.  
 3 Another officer came up and assisted me. And I don't  
 4 even know who that was. It was over ten years ago,  
 5 and I don't know if we gave him a ticket, gave him a  
 6 verbal warning, but I remember the guy left.  
 7 Q And that's it, in terms of your enforcement of the  
 8 mobile vending laws except when you're off duty  
 9 working for Safeco or Qwest?  
 10 A Correct.  
 11 Q Have you ever seized the tickets of an individual that  
 12 you have cited or written a report on for mobile  
 13 vending violations at Safeco Field?  
 14 A Never for a citation.  
 15 Q But for reports?  
 16 A I have, yes.  
 17 Q And why would you seize them for reports and not  
 18 citations?  
 19 A Because reports are not always -- but you can write  
 20 reports for other things, but for these, we write  
 21 reports for criminal violations, and I take the  
 22 tickets for evidentiary value to show evidence of a  
 23 crime.  
 24 Q Does it matter how many tickets the person has?  
 25 MR. MULLENIX: Object to the form.

Page 105

1 A I'm trying to think if it does or not. I don't know.  
 2 Maybe.  
 3 Q (By Mr. Ford) Have you ever seized tickets from  
 4 anyone in order to attach them to a report when the  
 5 tickets dealt with a date other than the one on which  
 6 the report was being written, in other words, tickets  
 7 for future events?  
 8 A Have I ever dealt with a scenario like that?  
 9 Q Yes.  
 10 A Yes, I have.  
 11 Q Have you ever taken tickets in that scenario?  
 12 MR. MULLENIX: I'm sorry, before  
 13 you answer, could you please repeat that question.  
 14 (Reporter read as requested.)  
 15 Q (By Mr. Ford) Here's -- a guy's selling tickets for  
 16 whatever reason, I guess, maybe a third-time offender.  
 17 You decide to write a report.  
 18 Have you ever had occasion to seize tickets for  
 19 future events in connection with such a report?  
 20 MR. FORD: Is that clear?  
 21 MR. MULLENIX: I have no objection  
 22 to it.  
 23 MR. FORD: Thank you.  
 24 A I have come across that. I can't remember if I seized  
 25 the tickets or not. Would I have, or would I in the

27 (Pages 102 to 105)

UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE

-----  
 WILLIAM ANDERSON,

Plaintiff,

vs.

THE BASEBALL CLUB OF SEATTLE  
 d/b/a THE SEATTLE MARINERS; THE  
 CITY OF SEATTLE; JASON WEAVING;  
 LARRY HARVEY; LARRY MEYER; OFFICER  
 TIMOTHY RENIHAN; TRENT BERGMAN;  
 OFFICER DAVID SULLIVAN; OFFICER  
 JUAN ORNELAS; and JOHN DOE NOS.  
 1-10,

Defendants.

No. C09-0850 RAJ

-----  
 Deposition Upon Oral Examination of

JUAN ORNELAS

-----  
 601 Union Street

Suite 3100

Seattle, Washington

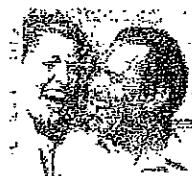
DATE: September 16, 2010

REPORTED BY: Christina Atencio, CCR #2749

<p style="text-align: right;">Page 18</p> <p>1 after you left them?</p> <p>2 A. I don't remember.</p> <p>3 Q. Did any other officers join or participate in this</p> <p>4 conversation at any point?</p> <p>5 A. I don't remember.</p> <p>6 Q. Do you know an Officer Sullivan?</p> <p>7 A. Not by name. I'm really bad with names. By sight</p> <p>8 then I would probably be like, yes, I remember him or, yes,</p> <p>9 I remember her.</p> <p>10 Q. On the second page of Exhibit 1, I think it's maybe</p> <p>11 a little better copy because it looks to me like this says</p> <p>12 6953 now, is that right, over your serial number?</p> <p>13 A. That's what I'm reading, 6953.</p> <p>14 Q. Is that another officer's serial number?</p> <p>15 A. Probably.</p> <p>16 Q. Does that mean that the other officer somehow got</p> <p>17 involved in this at this point?</p> <p>18 A. I don't remember.</p> <p>19 Q. Had you ever, before that, given a ticket for street</p> <p>20 vending to anyone?</p> <p>21 A. He was my very first one.</p> <p>22 Q. Had you ever before made an arrest for street</p> <p>23 vending of anyone?</p> <p>24 A. No.</p> <p>25 Q. At that point you had worked as a Seattle Police</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. MULLENIX: Object to the extent it calls for a</p> <p>2 legal conclusion. But go ahead.</p> <p>3 A. Yes, sir.</p> <p>4 Q. Does that happen once or many times?</p> <p>5 A. Once.</p> <p>6 Q. Can you describe that incident, please?</p> <p>7 A. It was either a year ago or two years ago. I was</p> <p>8 working Bumpershoot, and I gave a gentleman one of these</p> <p>9 citations for mobile vending for selling tickets outside the</p> <p>10 Bumpershoot area.</p> <p>11 Q. Do you know if that case went to court or to a</p> <p>12 hearing of any kind?</p> <p>13 A. I never received any subpoena so I have no idea.</p> <p>14 Q. And, I'm sorry, did you say you gave him a citation</p> <p>15 or wrote a report or what?</p> <p>16 A. Citation.</p> <p>17 Q. When you had that contact at Bumpershoot, did you</p> <p>18 take any steps to determine whether the person had a permit</p> <p>19 to engage in that selling activity?</p> <p>20 A. I believe I had the list, a list that was just</p> <p>21 printed out. And, like I said, he was doing mobile vending.</p> <p>22 He was walking up and down. He wasn't at a stationary</p> <p>23 place, a place of business. He was walking up and down.</p> <p>24 Q. When you say you had a list, what do you mean by</p> <p>25 that?</p>
<p style="text-align: right;">Page 19</p> <p>1 Officer for about eight years; is that right?</p> <p>2 A. Give or take.</p> <p>3 Q. What has been your assignment during your regular</p> <p>4 business hours since you've been at SPD?</p> <p>5 A. I worked patrol officer down in the valley area.</p> <p>6 Q. And still to this day?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So always patrol?</p> <p>9 A. Yes -- well, I did about six months in the burglary</p> <p>10 unit just on a temporary basis.</p> <p>11 Q. Foot patrol, car patrol, bike patrol, which?</p> <p>12 A. I do -- 99 percent of it is car patrol. Every now</p> <p>13 and then, for example, Torchlight, I work bicycles; Seafair,</p> <p>14 bicycles. But the majority is car patrol.</p> <p>15 Q. Have you ever given a street vending citation or</p> <p>16 arrested anybody for street vending at the Torchlight</p> <p>17 Parade?</p> <p>18 A. No.</p> <p>19 Q. Have you ever given a street use citation to this</p> <p>20 day or arrested anybody for street -- I'm sorry, I shouldn't</p> <p>21 ask it that way.</p> <p>22 Have you ever given a citation for street vending or</p> <p>23 arrested anyone for street vending while you were on duty,</p> <p>24 not working for one of the sports teams?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. A list that is printed out by -- usually by Larry</p> <p>2 Meyer that informs us of past violators that do mobile</p> <p>3 vending.</p> <p>4 Q. But on this occasion with Bumpershoot, I thought you</p> <p>5 said you were on duty?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So but Mr. Meyer was providing lists of that type to</p> <p>8 officers that were on duty working near Bumpershoot?</p> <p>9 A. No, sir. What happened was I had cited this same</p> <p>10 gentleman maybe a month or so before so I recognized him --</p> <p>11 immediately recognized him down at Bumpershoot so I still</p> <p>12 had his information. So I knew that this was going to be a</p> <p>13 second violation.</p> <p>14 Q. And when you had cited him before, had that been at</p> <p>15 a sports events?</p> <p>16 A. The first time I cited him was working for the</p> <p>17 Mariners.</p> <p>18 Q. Do you remember the person's name?</p> <p>19 A. No.</p> <p>20 Q. Can you describe him?</p> <p>21 A. Real thin, black male, bald -- not shaved, just bald</p> <p>22 head; really clean cut, nicely dressed. That's all I can</p> <p>23 remember. About 5'6", 5'7".</p> <p>24 Q. What was it about his conduct on that day at</p> <p>25 Bumpershoot that you believed constituted a violation of the</p>

6 (Pages 18 to 21)

# EXHIBIT D



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Wednesday May 25 2005 - Page updated at 12:00 p.m.

## Law's unintended result: Ticket sellers got hit hard

By Peter Lewis  
Seattle Times consumer-affairs reporter

A 2-year-old Seattle ordinance that was meant to control peanut and T-shirt vendors working the area around Safeco and Qwest fields was instead used primarily to catch people selling Mariners and Seahawks tickets.

More than 100 citations for ticket selling were issued by off-duty police officers hired by the two sports teams, using the city's mobile-vending ordinance. Only two citations clearly involved ticket scalping, or charging more than face value, according to data supplied by the city's transportation department, which administers the ordinance.

None of the citations hinged on what price the seller was asking. All were for selling tickets in an area that required a street-use permit.

The use of the law has come under scrutiny after Mayor Greg Nickels signed a related law last week revising the city's scalping ordinance. The revised law makes scalping legal in Seattle as of June 18. The expiring law, which made scalping a gross misdemeanor, was tied to "admission-tax" language obliging the reseller to pay the city the difference between the face value and the higher resale value.

As a result of the change in the law, Seattle Police say, they are rethinking their role of policing ticket sellers.

Deputy Chief Clark Kimerer said it's likely that the department, as a matter of policy, will not let officers on duty or off enforce the mobile-vending ordinance unless there's a specific complaint involving a public-safety issue.

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### Vending or scalping?

The new scalping ordinance, which takes effect June 18, allows casual sellers to offer tickets for whatever price they can get.

The mobile-vending ordinance, last modified in September 2003, requires vendors to obtain street-use permits to sell on streets surrounding Safeco and Qwest fields. It also bans any selling near the ticket windows.



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EXHIBIT D

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"We haven't finalized it," he said Thursday. "But I think that's the direction we're headed in."

The ordinance was never meant to be used to rein in ticket sales around the stadiums, Seattle City Councilman Richard Conlin said.

"It didn't have anything to do with tickets at all," recounted Conlin, who sponsored the legislation.

However, the law was written broadly enough to permit authorities to pursue ticket sellers. Conlin called that an "unintended consequence" that deserves some attention.

An analysis of 146 citations issued under the mobile-vending ordinance shows that 109 — about three out of four issued since the law took effect in September 2003 — were for ticket selling.

A city spreadsheet detailing the mobile-vending citations, obtained by The Seattle Times under a public-disclosure request, indicates that only two of the mobile-vending ticket cases clearly involved scalping. In the majority of cases, it was impossible to tell one way or the other. In 29 cases — or more than 1 in 4 — sellers were offering tickets at or below face value.

The citations, which carry a \$150 penalty for first-time offenders, were issued by off-duty undercover officers hired by the Mariners and the Seahawks. Collectively, the sellers received fines totaling more than \$124,000, although records show that only a fraction have paid, and others sought hearings to reduce the penalties.

The scalping ordinance also has led to citations, but that law has been under a legal cloud since last year, when a Municipal Court judge held that two men accused of scalping Mariners tickets were the victims of selective enforcement because the baseball club was doing the same thing online. The city attorney's office has appealed.

Meantime, officials with the city's Department of Revenue and Consumer Affairs determined that the law was unenforceable, although they said professional scalpers still will be required to get a business license.

Also, once the revised scalping law takes effect, the city's transportation department says it will start writing street-use permits for scalpers willing to pay the monthly fees and meet insurance requirements. That means fans could start to see "tickets for sale" booths along Occidental Avenue South, just north of Safeco Field.

Liz Rankin, a city transportation-department spokeswoman, said: "It was never the mayor's intention to use the mobile-vending law to enforce the anti-scalping law, which now is going away anyway. We will be backing away from enforcement of the mobile-vending ordinance as it relates to tickets."

Undercover officers hired by the Mariners and the Seahawks have enforced both laws. But with the revised scalping law soon to take effect, police say they likely will quit enforcing the mobile-vending law, unless there are specific complaints related to public safety.

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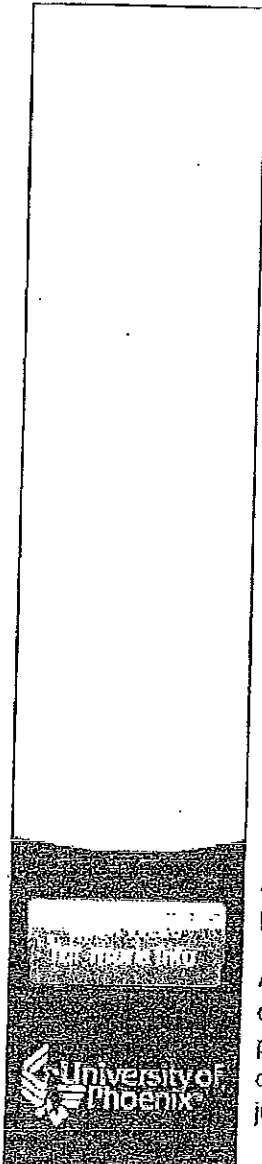
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Mariners spokeswoman Rebecca Hale had no comment.

Seahawks spokesman Dave Pearson said the organization's "primary goal is to protect our fans from potentially aggressive solicitation while ensuring their safety and the overall quality of our fan experience."

Seattle deputy chief Kimerer said that "at heart," ticket reselling is about scalping.

Among the people who insist they were not scalping when they were cited is Wayne Miyake of Seattle. Miyake, a Mariners season-ticket holder, said he was trying to get rid of an extra ticket at \$15, its face value, on Occidental Avenue South last month.

A retired Boeing worker, he said he wanted "to get some of my money back."

"I don't see the harm in trying to sell a ticket for face value," Miyake said.

He was approached by a man who asked, "How much?" and when Miyake said face value, the man identified himself as an undercover officer and pulled out his badge.

"He handed me a citation marked 'mobile vending' " that carried a \$150 fine, Miyake said.

Miyake wondered why he wasn't given a warning. "It's not like I was asking \$100," he said.

Last year, Miyake said, a uniformed officer who saw him trying to get rid of an extra ticket on the south side Royal Brougham Way had directed him to sell it on Occidental Avenue South. So he thought he was safe selling there, he said. Miyake requested a hearing to tell his story.


On Thursday, a city hearing examiner reduced his fine to \$90. "I was hoping for better than that, but that's what she did," he said.


Once the law changes June 18, Miyake said he might try selling again when he has an extra seat.


"Somewhere down the road, I'll be out there taking my chances," he said.

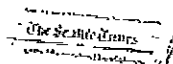
Peter Lewis: 206-464-2217

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# EXHIBIT E



The Honorable Richard A. Jones  
United States District Judge

SEP 21 2010

MACDONALD, SCHWAB & BAYLESS

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM ANDERSON,

Plaintiff,

v.

THE BASEBALL CLUB OF SEATTLE  
d/b/a/ THE SEATTLE MARINERS; THE  
CITY OF SEATTLE; JASON WEAVING;  
LARRY HARVEY; LARRY MEYER;  
OFFICER TIMOTHY RENIHAN; TRENT  
BERGMAN; OFFICER DAVID SULLIVAN;  
OFFICER JUAN ORNELAS; and JOHN  
DOE NOS. 1-10,

Defendants.

NO. C09-0850 RAJ

DEFENDANT THE CITY OF  
SEATTLE'S RESPONSE TO  
PLAINTIFF'S FIFTH REQUEST  
FOR PRODUCTION

COMES NOW defendant The City of Seattle, by and through its counsel of record, Ted Buck and Peter Mullenix of Stafford Frey Cooper, pursuant to Rule 33 of the Civil Rules of the United States District Court for the Western District of Washington, and Rules 26 and 34 of the Federal Rules of Civil Procedure, and responds to Plaintiff's Fifth Requests for Production. These responses will be supplemented only as required by, and in accordance with the Federal Rules of Civil Procedure, within a reasonable time following discovery of such information.

DEFENDANT THE CITY OF SEATTLE'S RESPONSE TO  
PLAINTIFF'S FIFTH REQUESTS FOR PRODUCTION - 1  
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EXHIBIT E

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 33:** Please produce all documents that describe any policy, procedure or requirement that a criminal complaint be issued after an individual has been issued two civil citations for mobile vending under SMC 15.17.

**RESPONSE:** The City has been unable to locate any documents responsive to the request.

**REQUEST FOR PRODUCTION NO. 34:** All documents created or maintained by the Seattle Department of Transportation that contain the names of individuals who have been cited for violation of SMC 15.17.

**RESPONSE:** Objection, the request is overbroad because it is not limited in scope as to time. Without waiving the objection, see the City's Response to RFP #26. In addition, see the attached document.

**REQUEST FOR PRODUCTION NO. 35:** Please produce all documents describing the transmission of the documents referred to in RFP No. 34 to any person for any purpose.

**RESPONSE:** Objection, the request is overbroad with regard to time and scope. Moreover, the only responsive documents are attorney work product and are not being produced for that reason.

**REQUEST FOR PRODUCTION NO. 36:** Please produce all documents containing or describing communication between the Seattle Police Department and

1 Seattle Department of Transportation regarding mobile vending, mobile vending  
2 ordinances, or the enforcement of mobile vending ordinances.

3  
4 **RESPONSE:** Objection, the request is overbroad with regard to time and scope.  
5 Without waiving the objection, the City has not yet concluded its search for documents  
6 responsive to this request. If such documents are found, the City will timely supplement  
7 this response.

8  
9 **REQUEST FOR PRODUCTION NO. 37:** Please produce for copying and  
10 inspection all citations or criminal incident reports for incidents at 1250 First Avenue  
11 South, Seattle, Washington, from January 1, 2004 to the present issued by the following  
12 Seattle Police Officers, whether working on or off-duty:

13 Larry Meyer

14 Timothy Renihan

15 Trent Bergmann

16 David Sullivan

17 Juan Ornelas

18 Officer DeBella (6844)

19 Officer Loiton (151)

20 Officer Larned (955)

21 Officer Vales (647)

22  
23 **RESPONSE:** See Response to Request for Production No. 25. In addition, see  
the attached documents. In addition, the City has not yet concluded its search for

# EXHIBIT F

**From:** Ted Buck [mailto:TBuck@staffordfrey.com]

**Sent:** Monday, September 13, 2010 4:08 PM

**To:** Tim Ford

**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Cole); Mrazik, Ryan T. (Perkins Cole)

**Subject:** Conlin subpoena question

Tim:

I apologize that my prior message was oblique. Councilman Conlin is unwilling to volunteer for deposition, and we intend to object to and move to quash any subpoena issued in an attempt to accomplish the task. Mr. Conlin's lack of relevant information and legal protections provided high-ranking governmental officials in civil lawsuits make the proposed deposition inappropriate. I ask that you consider the following before putting us all to the expense of such a motion.

Your client's experiences with the city have involved solely the executive branch. While you suggest that the council "is clearly a Monell policymaker," council policy need not be discovered by deposition; such policies are embodied in the Seattle Municipal Code. Any policy associated with the enforcement of municipal code, on the other hand, derives exclusively from the executive branch. Clearly Mr. Conlin cannot address executive branch policy. Moreover, even if legislative branch policy were at issue, Mr. Conlin's deposition cannot be used to prove the intent behind of any of the ordinances in the code; testimony of legislators is inadmissible to prove legislative intent under Washington law. *Cycle Barn, Inc. v. Arctic Cat Sales Inc.*, 701 F.Supp.2d 1197, 1203 (W.D. Wash. March 24, 2010) (citing *City of Yakima v. Int'l Ass'n of Fire Fighters*, 117 Wash.2d 655, 677, 818 P.2d 1076 (1991); see also *Woodson v. State*, 95 Wash.2d 257, 623 P.2d 683 (1980) ("Legislative intent in passing a statute cannot be shown by depositions and affidavits of individual state legislators").

Additionally, high-ranking government officials are normally not subject to deposition. *Kyle Eng'g Co. v. Kleppe*, 600 F.2d 226, 231 (9th Cir.1979). Such depositions are improper where the official is removed from the subject of the litigation and lacks "unique personal knowledge of the facts at issue". *Celerity, Inc. v. Ultra Clean Holding, Inc.*, No. 05-04374, 2007 WL 205067 (N.D.Cal. 2007). This is especially true where the information sought is available from "lower-level employees with more direct knowledge" of those facts. *Id.*; see also *Kyle Eng. Co. v. Kleppe*, 600 F.2d 226, 231-32 (9th Cir.1979) (agency heads not normally subject to deposition); *Warzon v. Drew*, 155 F.R.D. 183, 185 (E.D.Wis.1994) ("In general, high ranking government officials enjoy limited immunity from being deposed in matters about which they have no personal knowledge. The immunity is warranted because such officials must be allowed the freedom to perform their tasks without the constant interference of the discovery process"); *Nagle v. Superior Court*, 28 Cal.App.4th 1465, 34 Cal.Rptr.2d 281 (1994) (high ranking officials were not subject to deposition where plaintiff made no showing that either director had personal knowledge of matter at issue or that information could not be obtained through less burdensome means).

Councilman Conlin has no direct knowledge concerning any of the practices at issue in this suit. Any rumors he may have heard about enforcement practices cannot possibly shed light on *Monell* liability. If a city councilman could be deposed under these tenuous circumstances virtually any civil rights litigant could demand depositions of councilpersons, the mayor, and other removed governmental officials. The burden that would place on the leaders themselves and effective government is patent.

I'm happy to discuss any of these issues with you.

Ted

**Ted Buck**

Stafford Frey Cooper, PC  
601 Union, Ste. 3100  
Seattle, WA 98101  
206-623-9900

**From:** Tim Ford [mailto:TimF@MHB.com]  
**Sent:** Monday, September 13, 2010 4:21 PM  
**To:** Ted Buck  
**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee  
**Subject:** RE: Conlin subpoena question

We are just about to put out a dep notice for next Monday, since we haven't heard from Patrick since he told us he would accept service of this subpoena. (Is he representing the City on this issue, or are you?)

Anyway, we can forego Mr. Conlin's dep if the City will stipulate that the Seattle City Council was and is aware of the fact that off duty SPD officers employed by the Mariners and other sports teams were enforcing the mobile vending laws against ticketsellers, which is what the statements quoted in the paper indicate, and which is the reason we wanted to depose him.

Tim Ford  
MacDonald Hoague & Bayless  
206 622 1604  
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**From:** Ted Buck [mailto:TBuck@staffordfrey.com]

**Sent:** Tuesday, September 14, 2010 3:10 PM

**To:** Tim Ford

**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee

**Subject:** RE: Conlin subpoena question

Tim:

In the interest of avoiding the cost of the motion to quash we'll offer to stipulate that Conlin was informed as of May 25, 2005 that ticket re-sellers were being cited under the mobile vending ordinance.

Thanks,

Ted

**Ted Buck**

Stafford Frey Cooper, PC  
601 Union, Ste. 3100  
Seattle, WA 98101  
206-623-9900



**From:** Tim Ford [mailto:TimF@MHB.com]

**Sent:** Tuesday, September 14, 2010 4:38 PM

**To:** Ted Buck

**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee

**Subject:** RE: Conlin subpoena question

By "off duty officers employed by the sports teams", as the article indicates?

Tim Ford  
MacDonald Hoague & Bayless  
206 622 1604  
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**From:** Ted Buck [mailto:TBuck@staffordfrey.com]

**Sent:** Tuesday, September 14, 2010 4:45 PM

**To:** Tim Ford

**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee

**Subject:** RE: Conlin subpoena question

We can't stipulate to that level of detail, primarily because it is a legal fallacy. By state law an officer is functioning in a law enforcement role immediately upon taking enforcement action, whether on-duty or off. The proposed language implies something very different than that. I can only offer what I earlier mentioned, "Conlin was informed as of May 25, 2005 that ticket re-sellers were being cited under the mobile vending ordinance."

## **Ted Buck**

Stafford Frey Cooper, PC  
601 Union, Ste. 3100  
Seattle, WA 98101  
206-623-9900

**From:** Tim Ford [mailto:TimF@MHB.com]  
**Sent:** Wednesday, September 15, 2010 9:54 AM  
**To:** Ted Buck  
**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee  
**Subject:** RE: Conlin subpoena question

How about just stating that he was aware of the contents of the 5/25/2005 Seattle Times article and made the comments quoted therein?

Tim Ford  
MacDonald Hoague & Bayless  
206 622 1604  
[www.mhb.com](http://www.mhb.com)

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**From:** Ted Buck [mailto:TBuck@staffordfrey.com]  
**Sent:** Thursday, September 16, 2010 8:54 AM  
**To:** Tim Ford  
**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee  
**Subject:** RE: Conlin subpoena question

We're willing to stipulate to what I proposed. Otherwise, we'll need to move to quash.

## **Ted Buck**

Stafford Frey Cooper, PC  
601 Union, Ste. 3100  
Seattle, WA 98101  
206-623-9900

**From:** Tim Ford [mailto:TimF@MHB.com]  
**Sent:** Thursday, September 16, 2010 2:31 PM  
**To:** Ted Buck  
**Cc:** David J. Whedbee; Downs, Patrick; Peter J. Mullenix; Burman, David J. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie); Carrie Wilkinson; David J. Whedbee  
**Subject:** RE: Conlin subpoena question

I guess we're at impasse on this, then.

Tim Ford  
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